

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

AZURE MANOR/RANCHO DE PAZ
HOMEOWNERS ASSOCIATION, *et al.*,

Plaintiffs,

vs.

D.R. HORTON, INC., *et al.*,

Defendants.

Case No. 2:15-cv-01623-GMN-VCF

ORDER

Before the court is Third Party Defendant M&M Construction, Inc.'s Motion to Deem Settlement Agreement and Release of Claims Fully Executed. (ECF No. 137). A hearing was held on September 29, 2016. The Court canvassed and heard representations from the parties.

A. Relevant Facts

This case involves alleged construction defects with common area components of the Azure Manor/Rancho de Paz community. The community was constructed by D.R. Horton, Inc. and U.S. Home Corp. ("U.S. Home"), with D.R. Horton, Inc. constructing the Azure Manor section of the community and U.S. Home Corp., constructing the Rancho de Paz section.

On September 8, 2015, Defendants U.S. Home, Lennar Corp. and Lennar Sales Corp. filed a Third-Party Complaint against several subcontractors, including M&M Construction, Inc. ("M&M"). (ECF No. 137). U.S. Home alleges that it entered into a subcontract agreement with M&M relating to the Property. In December 2015, M&M answered U.S. Home's Third-Party Complaint. (ECF No. 53). M&M and U.S. Home have since participated in two mediations which lead to a successful settlement. (ECF No. 137).

M&M and U.S. Home Corp. have agreed to the final terms of a Settlement Agreement and Release of Claims. (ECF No. at 137-1). Counsel for M&M has not been able to locate an agent of M&M to execute the final Settlement Agreement and Release of Claims. M&M is no longer in business and its only known

owner passed away in October of 2015. M&M's counsel requests that the Court deem the Settlement Agreement and Release of Claims between M&M and U.S. Home Corp., fully executed by M&M. *Id.*

B. Relevant Law/Discussion

Under Local Rule IA 11-6(a), an attorney who has appeared for a party must be recognized by the court and all the parties as having control of the client's case. Given that M&M's counsel has made several attempts and cannot locate a representative of M&M to sign the settlement agreement, the court deems that the Settlement Agreement and Release of Claims between M&M and U.S. Home Corp., as attached in ECF No. 137-1, is fully executed, and enforceable.

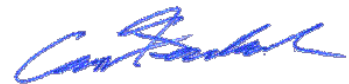
No opposition has been filed. This constitutes consent to the granting of the motion under Local Rule 7-2(d), which states that “[t]he failure of an opposing party to file point and authorities in response to any motion shall constitute a consent to the granting of the motion.”

Considering the factors outlined above, the Court grants Third Party Defendant M&M Construction, Inc.'s Motion to Deem Settlement Agreement and Release of Claims Fully Executed. (ECF No. 137).

Accordingly, and for good cause shown,

IT IS HEREBY ORDERED that Third Party Defendant M&M Construction, Inc.'s Motion to Deem Settlement Agreement and Release of Claims Fully Executed. (ECF No. 137) is GRANTED.

DATED this 29th day of September, 2016.



CAM FERENBACH
UNITED STATES MAGISTRATE JUDGE